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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,136	09/30/2003	Henrik Ovesen	900.43156X00	3836
20457	7590	11/09/2005	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/673,136	<b>Applicant(s)</b> OVESEN ET AL.	
	<b>Examiner</b> David J. Parsley	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 9-21-05 and this action is non-final.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,788,564 to Chamberlain in view of U.S. Patent No. 5,487,699 to Tyrrell et al.

Referring to claim 8, Chamberlain discloses a method for gas stunning of animals for slaughter arriving at a slaughterhouse, where the animals are conveyed successively by means of conveyors – at 27,33,34, through a stunning chamber – at 10-18, wherein an influence of gas for stunning the animals is adjusted while the animals are within the stunning gas by shortening or lengthening a conveying time during which the animals travel within the stunning gas – see for example the adjustable drive – at 47 for the conveyor – at 27 in column 3 lines 40-52, and adjusting a length of conveying traveled by the animals within the stunning gas through the

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stunning chamber – see for example figure 1 where the conveyor – at 27, has inclined ends on each side of a horizontal run where the length of the conveyor is adjusted in that the elevation/incline of the conveyor changes over the course of its length which allows for only parts of the animal to be contacted/effected by the stunning gas when the animal is on the inclined portions of the conveyor and allows for the entire animal to be contacted/effected by the stunning gas. Chamberlain does not disclose the animals arrive at the slaughterhouse in crates and are transported along the conveyor in crates through the stunning chamber. Tyrrell et al. does disclose the animals arrive at the slaughterhouse in crates – at 22, and are transported along the conveyor – at 20,23,24,28,31,32,34, in crates – at 22, through the stunning chamber – at 10 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Chamberlain and add the animals being transported through the stunning chamber in crates of Tyrrell et al., so as to allow for the animals to be confined so as to not damage the device, the operators of the device or other animals during the stunning process.

Referring to claim 9, Chamberlain as modified by Tyrrell et al. further discloses shortening or lengthening the conveying time through the stunning chamber is achieved by increasing or reducing a speed of the conveyors – see for example column 3 lines 40-52 of Chamberlain.

Referring to claims 10-11, Chamberlain as modified by Tyrrell et al. further discloses adjustment of the length of conveying through the stunning chamber is achieved by lowering or lifting a substantially horizontal conveyor – at 24, wherein the conveyor provides for the conveying of the transport crates through the stunning chamber within the gas for stunning

between a downwards running conveyor – at 23,26, and an upwards running conveyor – at 31-32 – see for example figure 1 of Tyrell et al.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain as modified by Tyrell et al. as applied to claims 8-11 above, and further in view of WO Patent No. 94/27425 to Jull et al.

Referring to claims 12-15, Chamberlain as modified by Tyrell et al. does not disclose an influence of the gas for stunning the animals is adjusted by varying the gas concentration at varying levels in the stunning chamber as increasing gas concentration is applied in a downwards direction in the stunning chamber. Jull et al. does disclose an influence of the gas for stunning the animals is adjusted by varying the gas concentration at varying levels in the stunning chamber – at 40 or 106, with an increasing gas concentration being applied in a downwards direction in the stunning chamber – see for example pages 13-14. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Chamberlain as modified by Tyrell et al. and add the stunning chamber with varying gas levels of Jull et al., so as to reduce the loss of gas from the stunning chamber.

Claims 16-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain as modified by Tyrell et al. or Chamberlain as modified by Tyrell et al. and Jull et al. as applied to claims 8-15 above.

Referring to claims 16-23, Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. further disclose a substantially horizontal conveyor – at 24, which receives and introduces the transport crates – at 22, and animals for slaughter into a gas filled stunning chamber – at 10 – see figure 1 of Tyrell et al., in which a downwards running

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conveyor – at 23,26, is arranged for successively conveying transport crates downwards in the stunning chamber and an upwards running conveyor – at 31,32, which arranged for successively conveying the transport crates upwards out of the stunning chamber – see for example figure 1 of Tyrell et al., wherein the downwards running conveyor comprises substantially vertical conveyors – at 23, which support the opposite sides of the transport crates – at 22, for downwards conveying of the transport crates in the stunning chamber – see for example figure 1 of Tyrell et al., the upwards running conveyor – at 31,32, comprises a substantially vertical conveyor comprising mutually interacting endless chain conveyors which support opposite sides of the transport crates – at 22, for upwards conveying from the stunning chamber – see for example figure 1 and column 4 lines 1-15 of Tyrell et al., and between the downwards and upwards running conveyors there is a substantially horizontal conveyor – at 24,28,34, which provides horizontal conveying of the transport crates – at 22, through the stunning chamber, which horizontal conveyor further is lifted and lowered respectively between levels with varying gas concentrations in the stunning chamber – see for example – at 24 in figure 1 of Tyrell et al. Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. further discloses the downwards conveyor is an electric conveyor – see column 3 lines 60-67 of Tyrell et al. Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. do not disclose the upwards conveyor comprises mutually interacting endless chain conveyors, however it would have been obvious to one of ordinary skill in the art to take the device of Chamberlain as modified by Tyrell et al. or Chamberlain as modified by Tyrell et al. and Jull et al. and add the upwards conveyor comprising chain conveyors, so as to facilitate lifting of the transport crates. The use of chains for conveying means is well known in the

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butchering/slaughtering art and therefore it would have been obvious to one of ordinary skill in the art to take the electric conveyor of Tyrell et al. and make it a chain conveyor.

Referring to claims 24-31, Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. further discloses the stunning chamber is divided into a lower zone, an intermediate zone and an upper zone – see figure 6 of Jull et al. Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. further disclose sensors – at 40, provide for monitoring and control respectively of the gas concentration in the zones – see for example column 3 lines 18-40 of Chamberlain. Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. does not disclose the gas concentration of the gas for stunning of the lower zone is 45-51%, the gas concentration of the intermediate zone is 32-46% and the gas concentration of the upper zone is 8-10%, however the gas concentration levels are values determined via experimentation and it appears that the device of Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. would perform equally as well with the gas levels of the lower zone being 45-51%, of the intermediate zone being 32-46% and the upper zone being 8-10%. Further, as seen in paragraph [0015] in applicant's disclosure the level of gas concentration in the stunning chamber has very little effect on the effectiveness of the claimed invention and therefore the gas concentration levels are not a critical part of the invention.

Claims 32-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain as modified by Tyrell et al. or Chamberlain as modified by Tyrell et al. and Jull et al. as applied to claims 16-23 above, and further in view of U.S. Patent No. 5,902,177 to Tessier et al.

Referring to claims 32-40, Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. further discloses a control system controlling mutually dependent mechanical parameters of speed of vertical conveyors, number of transport crates in the stunning zones, a cycle of crates in the stunning zone, number of animals per crate, a speed of a slaughtering line and a speed cycle between crates in the stunning zone – see for example figure 1 and columns 3-5 of Tyrell et al. and figures 1-6 and pages 9-18 of Jull et al.

Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. does not disclose the control system is a PLC. Tessier et al. does disclose using a PLC controller – at 105. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Chamberlain as modified by Tyrell et al. and Chamberlain as modified by Tyrell et al. and Jull et al. and add the PLC controls of Tessier et al., so as to allow for the device to be automated with selected parameters being variable and programmed by the user.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 8-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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